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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,235	07/01/2005	Patrick Lambertus Kerkhof	Q88953	3771

23373 7590 10/15/2007
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EXAMINER

CHOI, HYE A JUNG

ART UNIT	PAPER NUMBER
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4124

MAIL DATE	DELIVERY MODE
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10/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,235

Applicant(s)

KERKHOF ET AL.

Examiner

Hyea J. Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/1/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-11, 13, and 15 is/are rejected.
- 7) ☒ Claim(s) 3-4, 12, and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/1/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/01/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on 07/01/05 has been received and considered. The search report from PCT/NL2004/000001 has also been received and considered. It is noted that documents to Kabo PlasticIndustri AB, patent AU 33764 71 A and by Mill, patent GB 678 883 A were not provided and not included on the 07/01/05 IDS and therefore have not been considered.

Specification

2. The disclosure is objected to because of the following informalities:
appropriate section headings are omitted.

Appropriate correction is required.

Claim Objections (Minor Informalities in Claims)

3. Claims 1-15 objected to because of the following informalities.

In Reference to Claim 1-15

Claims 1-15 are objected. In each of the claims, an article ("a" or "the") should start the sentence.

In Reference to Claim 1

The word "producing" is used in place of --protruding--. Also, the claim should read --a free end-- instead of "the free end"; otherwise, the claim term would lack antecedent basis. (This occurs twice in the claim.)

In Reference to Claim 5

The claim is objected to because "the end limit" and "the second edge" lack antecedent basis.

In Reference to Claim 8, 9, and 11

In line 3 or in line 2, "the annular part" lacks antecedent basis.

In Reference to Claim 12

In line 1, "said point" lacks antecedent basis. Appears claim should depend on claim 11.

In Reference to Claim 14

The claim is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to the preceding in alternative only. Claim 14 refers to any one of the preceding claims and in combination with claim 5. See MPEP § 608.01(n). Accordingly, claim 14 has not been further treated on the merits.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 5-10, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,743,844 to Livingstone (Livingstone). Livingstone teaches:

In Reference to Claim 1

Pourer (Fig. 23) comprising a sleeve-shaped elongated body constructed at one end (lower end) for clamping introduction into the pouring facility of a container (192) and constructed at the other end (upper end) as a collector (200) for liquid droplets (col. 1, lines 19-21), wherein a pouring section (190) is arranged in the other end, the free end (198) of the pouring section in the pouring position producing further than the free end (above bead 200) of the collector, wherein a collection channel (196) is delimited between the collector and the pouring section (190), the collection channel having a transverse section (See dashed line.) extending transversely with respect to the longitudinal axis (vertical center line through pourer) of the elongated body and merging into a longitudinal section (at sidewalls of slot; see col. 3, lines 65-68) on either side, characterized in that the longitudinal section of the collection channel opens into the sleeve-shaped body. (See analogous description with respect to Fig. 2 in col. 3, line 24 to col. 4, line 7)

In Reference to Claim 2

The pourer of claim 1 (See rejection of claim 1 above) is made of a single material part (for example, plastic, see column 2, lines 2-3).

In Reference to Claim 5

In the pourer of claim 2 (See rejection of claim 2 above), wherein the end limit of the second edge is at a positive angle with respect to the longitudinal axis of the pourer. (198, see Fig. 23)

In Reference to Claim 6

The pourer of claim 1 (See rejection of claim 1 above), wherein the other end of the tubular body has an annular part (pouring section 190) provided with a split (slot in spout 190) extending longitudinal direction of the body over the entire length, thereof (See Fig. 2 and 23 of Livingstone), which annular part is made of a resilient material (e.g. plastic: see column 2, lines 2-3).

In Reference to Claim 7

The pourer according to claim 6 (See rejection of claim 6 above), wherein the split comprises a gap of at least 20 degrees (See Fig. 2).

In Reference to Claim 8 The pourer according to claim 5 (See rejection of claim 5 above), wherein, in the non-compressed position, the external diameter of an annular part is at least approximately 20 mm. (Diameters greater than 20 mm are anticipated and they are taught to accommodate desired bottles, col. 11, line 73 to col. 12, line 43)

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In Reference to Claim 9

The pourer according to claim 5 (See rejection of claim 5 above), wherein said annular part is provided with external ribs (289 and 286 of Fig. 29).

In Reference to Claim 10

The pourer according to claim 8 (See rejection of claim 8 above), wherein the annular part is provided with an elastomer sealing ring. (Beads 289 and 286 are also sealing rings. See Fig. 29.)

In Reference to Claim 13

The pourer according to claim 6 (See rejection of claim 6 above), wherein one part is flared (198 after the free end).

In Reference to Claim 15

The pourer according to claim 1 is made from plastic material (See column 2, lines 2-3 of Livingstone).

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,101,993 to Nairn et al. (Nairn et al.).

9/16/97
Nairn et al. teaches:

In Reference to Claim 1

Pourer (24) comprising a sleeve-shaped elongated body constructed at one end (lower end 30) for clamping introduction into the pouring facility (mouth 35) of a container (12) and constructed at the other end (upper end 34) as a collector for liquid droplets (col. 3, lines 48-57), wherein a pouring section (44) is arranged in said other end, the free end (46) of said pouring section in the

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pouring position protruding further than the free end (top of upper end 34) of the collector, wherein a collection channel (62) is delimited between said collector (28) and said pouring section (44), said collection channel having a transverse section (66 Fig. 6)) extending transversely with respect to the longitudinal axis (dashed line Fig. 1) of said elongated body and merging into a longitudinal section (at sidewalls of slot 70, Figs. 3-4) on either side, characterized in that the longitudinal section of the collection channel opens into the sleeve-shaped body (Fig. 4).

In Reference to Claim 2

Pourer according to Claim 1 (see rejection of claim 1 above), wherein said collector and pouring section comprise a single material part (molded as a single piece, col. 3, lines 16-19).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Nairn et al. in view of US Patent No. 4,298,145 to Iida (Iida)

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In Reference to Claim 5

7/15 Nairn et al ~~teaches~~ a pourer according to Claim 2 (see rejection of claim 2 above), but does not show the end limit of the second edge is at an angle with respect to the longitudinal axis of said pourer, which angle is positive.

lida teaches to provide an the end limit (pouring lip 5) of a second edge at an angle with respect to the longitudinal axis of a pourer (1), which angle is positive in order to minimize drip (col. 1, lines 45-46).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have included the pouring lip (5) of lida in the pourer of Nairn et al. in order to minimize drip as taught by lida.

In Reference to Claim 11

Nairn et al. as modified by lida teaches:

Pourer according to Claim 5, wherein the free end (Nairn 73) of the annular part comprises a point extending in the longitudinal direction.

Allowable Subject Matter

9. Claim 3, 4, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The allowability of claim 12 is predicated on correction of its dependency to claim 11.

10. The following is a statement of reasons for the indication of allowable subject matter: no prior art could be found which reads on claim 3, 4, and 12. (Claim 3: a pourer according to claim 1, wherein the cross-section of the channel gradually

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decreases from the transverse section to the opening of the longitudinal section into the sleeve-shaped body. Claim 4: due to its dependence on claim 3. Claim 12 (presumed to depend on claim 11) wherein from said point, said end limit of the annular part extends in a accordance with a spiral, with the longitudinal direction as core)

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Struble, and De Brock have been included because they are generally representative of prior art liquid dispensing fitments.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hyea Jung Choi, whose telephone number is 571-270-5061. The examiner can normally be reached on Monday, Tuesday, Wednesday, Thursday, and alternate Fridays.


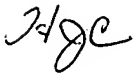
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Bomberg, can be reached at 571-272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair->

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HJC



KENNETH BOMBERG
SUPERVISORY PATENT EXAMINER